

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE VALVE ANTITRUST LITIGATION

Case No. 2:21-cv-00563-JCC

**DECLARATION OF CHRISTOPHER  
SCHENCK IN SUPPORT OF  
DEFENDANT VALVE  
CORPORATION'S MOTION TO SEAL**

I, Christopher Schenck, declare and state as follows in support of Defendant Valve Corporation's ("Valve") Motion to Seal:

1. I am in-house counsel at Valve. I am competent to testify and have personal knowledge of the facts stated below.

2. Valve seeks to seal the following documents and information, which are collectively referred to in this Declaration and in Valve's Motion to Seal as the "Sealed Materials":

- Exhibits 4-10, 12-14, and 16 to the Declaration of Stephanie L. Jensen in Support of Dark Catt Plaintiffs' LCR 37 Submission Regarding Request for Production No. 79 ("Jensen Decl.") in their entirety;

SCHENCK DECLARATION ISO MOTION TO SEAL  
(CASE NO. 2:21-CV-00563-JCC) - 1

**FOX ROTHSCHILD LLP**  
1001 FOURTH AVENUE, SUITE 4400  
SEATTLE, WA 98154  
206.624.3600

- 1 • Exhibits A and B to the Declaration of Gavin W. Skok in Support of Valve’s
- 2 Opposition to the LCR Submission Regarding Plaintiffs’ Motion to Compel Request
- 3 for Production 79 (“Skok Decl.”) in their entirety;
- 4 • The unredacted version of the Skok Decl.;
- 5 • Declaration of Scott Lynch in Support of Valve’s Opposition to the LCR Submission
- 6 Regarding Plaintiffs’ Motion to Compel Request for Production No. 79 (“Lynch
- 7 Decl.”) in its entirety; and
- 8 • The unredacted version of the parties’ LCR 37 Submission Regarding Plaintiffs’
- 9 Motion to Compel Request for Production No. 79: Valve Corp’s 2012–22 Tax
- 10 Returns.

11 3. The Sealed Materials contain the following highly confidential, trade secret, and  
12 proprietary information from Valve:

- 13 a. Internal Valve communications discussing Valve’s business and financial
- 14 performance and communications strategy (Jensen Dec., Ex. 4), which Valve
- 15 designated “Highly Confidential – Attorney’s Eyes Only” under the Protective
- 16 Order when produced in discovery;
- 17 b. Letters and emails between counsel containing highly confidential Valve
- 18 financial information, including details about the transactional data Valve
- 19 collects and produced to Plaintiffs, its collection and reporting of financial data,
- 20 historical financial records, Valve’s tax returns, and the terms of Valve’s
- 21 contracts with third parties (Jensen Decl., Ex. 5, 7, 8, 9);
- 22 c. A letter from Plaintiffs’ counsel with numerous detailed questions regarding
- 23 Valve’s financial information production, which discloses details about Valve’s
- 24 highly confidential financial information production (Jensen Decl., Ex. 10) and
- 25 a highly-detailed response from Valve’s counsel providing extensive
- 26 information about Valve’s finances, operations, and record-keeping (Jensen

Decl., Ex. 12), which Valve designated “Highly Confidential – Attorney’s Eyes Only” under the Protective Order when produced in discovery;

- d. A presentation to Valve’s board of directors that reveals Valve’s highly confidential financial and sales information and sensitive business strategy information (Jensen Decl., Ex. 16), which Valve designated “Highly Confidential – Attorney’s Eyes Only” under the Protective Order when produced in discovery;
- e. Excerpts from the transcript of the October 13, 2023 Fed. R. Civ. P. 30(b)(6) deposition of Scott Lynch (Valve’s Chief Operating Officer) that contain testimony revealing Valve’s highly confidential financial information, accounting practices, and business strategy, and which Valve designated “Highly Confidential – Attorney’s Eyes Only” under the Protective Order at the time of the deposition (Jensen Decl. Ex. 14; Skok Decl., Ex. A);
- f. Excerpts from the transcript of the October 5, 2023 deposition of Cassidy Gerber, a Valve employee, which contain testimony revealing highly confidential information regarding Valve’s finances, accounting practices, and record-keeping, and which Valve designated “Highly Confidential – Attorney’s Eyes Only” under the Protective Order at the time of the deposition (Jensen Decl. Ex. 13);
- g. Internal Valve notes regarding job interview notes, including personal information regarding interviewees (Jensen Decl., Ex. 6), which Valve designated “Highly Confidential – Attorney’s Eyes Only” under the Protective Order when produced in discovery;
- h. An exemplar of the P&L statement produced by Valve to Plaintiffs in discovery (Skok Decl., Ex. B) and description of the information it contains (Skok Decl., ¶¶ 4–5), which discloses the types and categories of financial information

1 collected by Valve. Valve designated the P&L statements it produced in  
2 discovery as “Highly Confidential – Attorney’s Eyes Only” under the Protective  
3 Order, as shown on the footer of Skok Decl., Ex. B;

4 i. The Lynch Declaration (i) provides details regarding Valve’s accounting system  
5 and source code repository that could be misused by bad actors to hack or cause  
6 damage to Valve, (ii) describes Valve’s financial reporting and accounting  
7 practices, and (iii) discloses the types of information included on Valve’s  
8 federal income tax returns and describes how such information is presented. All  
9 of this information is highly confidential and proprietary to Valve; and

10 j. Excerpts from, and summaries of, this highly confidential Valve information  
11 were also included by both parties in Plaintiffs’ Motion to Compel.

12 4. Valve is a video game company headquartered in Bellevue, Washington. It is a  
13 privately held company with no outside shareholders or lenders. It is not subject to public  
14 regulatory reporting and auditing requirements. Valve does not publicly disclose its financial,  
15 accounting or sales and revenue information or publicly disclose its business strategies,  
16 including, but not limited to, the information in the Sealed Materials. Indeed, Valve has chosen  
17 to stay private in part to avoid the intrusiveness and competitive harm that would come from  
18 publicly disclosing and reporting this type of operational and financial information.

19 5. Valve derives a significant value from the confidentiality of this information  
20 (including the information contained in the Sealed Materials) and zealously protects its  
21 confidentiality. Valve has expended significant resources and implemented strict measures to  
22 prevent disclosure of the information in the Sealed Materials and similar highly confidential  
23 information, including by storing such information under password protection on internal Valve  
24 servers, limiting access to certain of the information described above to certain Valve employees  
25 with a specific need to know, and not making such information publicly available (including to any  
26 outside investors or lenders, which Valve does not have). The highly confidential Valve

1 information in the Sealed Materials would not be available in the ordinary course of business to  
2 Valve's competitors or the public.

3 6. Public disclosure of the information in the Sealed Materials would significantly  
4 harm Valve's competitive standing by providing substantial and unfair insight into Valve's  
5 finances, accounting practices, operations, business strategies, and business relationships.

6 7. Further, Plaintiffs' Request for Production No. 79 is specifically targeted at  
7 Valve's federal income tax returns. Valve and other companies rely on the confidentiality of  
8 tax returns in disclosing their highly sensitive financial information. The confidentiality and  
9 sensitivity of tax returns is universally recognized within the industry, which is also reflected in  
10 the public policy public against unnecessary disclosure of tax returns in discovery.

11 8. Valve also maintains confidential third-party sales and revenue information.  
12 Valve's agreements with these third parties require Valve to keep this information confidential.  
13 Valve has various agreements with its business partners, including those that contain  
14 confidentiality provisions. Valve protects and specifically does not publicly disclose any  
15 confidential information of its business partners in accordance with these agreements and to  
16 protect the third parties' confidentiality.

17  
18 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
19 October 30, 2023 at Bellevue, Washington.

20 DocuSigned by:  
21   
22 9071C6D6666D418...

23 Christopher Schenck  
24  
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